

REMARKS / ARGUMENTS

I. General Remarks

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application.

II. Disposition of Claims

Claims 15-23, 28-30, 47-50, and 55-67 are pending in this application. Claims 1-14, 24-27, 31-46, 51-54, and 68-81 have been cancelled herein.

Claims 29, 59, 63, and 66 stand rejected under 35 U.S.C. § 112. Claims 47-50, 56-59, 61, and 63-67 stand rejected under 35 U.S.C. § 102(e). Claims 15-22, 28-30, 47-49, 55-64, 66, and 67 stand rejected under 35 U.S.C. § 102(b). Claims 15-23, 28-30, 47-50, 55-67 stand rejected under 35 U.S.C. § 103(a). Claims 15, 22, 29, 47, 49, 50, and 54 stand provisionally rejected under the doctrine of nonstatutory obviousness-type double patenting. The Examiner has objected to the information disclosure statement filed on December 2, 2004, the drawings, and the specification.

III. Remarks Regarding Objections to the Information Disclosure Statement

The Office Action states that the information disclosure filed on December 2, 2004 fails to comply with 37 C.F.R. 1.98(a)(2) for failure to provide a legible copy of certain foreign patent documents and non-patent literature publications listed thereon. (*See* Office Action at page 6.) With this Response, Applicants have included copies of the references that the Examiner indicated he had not received on the PTO-1449 forms. Applicants apologize for any inconvenience that this omission may have caused to the Examiner.

IV. Remarks Regarding Objections to the Drawings

The Examiner has objected to the drawings because “it is unclear what the curves in Figure 1 represent as the key marks all run together; if necessary, the scale on the y axis should be expanded so that the curves are distinguishable.” (Office Action at page 7.)

In response to these objections, Applicants have submitted herewith a Replacement Sheet for Figure 1, in which Applicants have made the corrections requested by the Examiner. Accordingly, Applicants respectfully request the withdrawal of the objections to the drawings.

V. Remarks Regarding Objections to the Specification

The Examiner has objected to the specification because “[t]he title of the invention is not descriptive -- it could be used to describe every invention in a multitude of classes. A new title is required that is clearly indicative of the invention to which the claims are directed.” (Office Action at page 8.) In this Response, Applicants have amended the title in accordance with the Examiner’s request, and thus respectfully request the withdrawal of the objection thereto.

VI. Remarks Regarding Election/Restriction Requirements

A. Remarks Regarding Applicants’ Election of Inventions

The Office Action states that Applicants’ claims are directed to several different inventions, and “because these inventions are distinct . . . restriction for examination purposes is proper.” (See Office Action at page 4.) On August 4, 2005, during a telephone conversation with the Examiner, claims 15-31 and 47-68 were provisionally elected in response to the Examiner’s restriction requirement. This provisional election is hereby confirmed and claims 1-14, 32-46, and 69-81 have been cancelled. Applicants reserve the right to present the cancelled claims in one or more continuing applications.

B. Remarks Regarding Applicants’ Election of Species

The Office Action states that the “application contains claims directed to groups of patentably distinct species of the claimed invention,” and that Applicants are “required under 35 U.S.C. § 121 to elect a single disclosed species for the group [of degradable materials in a bridging agent] for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.” (See Office Action at pages 4-5.) On August 4, 2005, during a telephone conversation with the Examiner, poly(orthoesters) were provisionally elected in response to the Examiner’s restriction requirement. Applicants hereby confirm this provisional election, and identify claims 15-23, 28-30, 47-50, and 55-67, as amended herein, as falling within these elected species. Applicants also have withdrawn claims 24-27, 31, 51-54, and 68 herein. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

VII. Remarks Regarding Rejections of Claims

A. Rejections of Claims Under 35 U.S.C. § 112

Claims 29, 59, 63, and 66 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully disagree with each of these rejections.

1. Claim 29

With respect to claim 29, the Office Action states that the “definition given at page 6, paragraph 20 of the specification for ‘efficient filter cake’ is broad enough to include about any situation. The scope of the claimed subject matter is thus unclear.” (Office Action at page 8.) Applicants respectfully disagree, and submit that this language is sufficiently definite to comply with 35 U.S.C. § 112. “The fact that claim language . . . may not be precise, does not automatically render the claim indefinite under 35 U.S.C. § 112, second paragraph. Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” *See* MPEP § 2173.05(b) (citations omitted). For example, a limitation such as “an effective amount” has been held to be sufficiently definite when read in light of the supporting disclosure and in the absence of any prior art which would give rise to uncertainty about the scope of the claim. *See* MPEP § 2173.05(c) (citing *Ex parte Skuballa*, 12 U.S.P.Q.2d 1570 (Bd. Pat. App. & Inter. 1989)). Here, Applicants are aware of no prior art that would create any uncertainty as to the scope of the subject claims. Rather, one of ordinary skill in the art readily would ascertain, in light of Applicants’ disclosure, that an “efficient filter cake” is a filter cake is one comprising only as much bridging agent that would be required to provide a desired level of fluid loss control, and what that level of fluid loss control is for a particular application of the present invention. Accordingly, Applicants respectfully assert that the use of the term “efficient filter cake” in the subject claims satisfies the requirements of 35 U.S.C. § 112, second paragraph. Applicants respectfully request the withdrawal of the rejection thereunder against claim 29, and earnestly solicit the timely issuance of a Notice of Allowance for this claim.

2. Claims 59, 63, and 66

With respect to claims 59, 63, and 66, the Office Action states that the “claims require that a ‘sufficient’ amount of a specified material be present so that a ‘desired’ amount of

something specified results. This is no way to tell what is actually required given this wording - anything could suffice.” (Office Action at page 8.) Applicants respectfully disagree, and submit that this language is sufficiently definite to comply with 35 U.S.C. § 112. As discussed above, “[t]he fact that claim language . . . may not be precise, does not automatically render the claim indefinite under 35 U.S.C. § 112, second paragraph. Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” See MPEP § 2173.05(b) (citations omitted). Applicants respectfully note that claims 59, 63, and 66 do not merely call for a “desired amount of something,” but rather articulate the specific results to be achieved to a desired level (*e.g.*, suspending the bridging agent for a desired time, providing a desired degree of fluid loss control, and creating a desirable number of voids in the filter cake, respectively). Applicants are aware of no prior art that would create any uncertainty as to the scope of these subject claims. Rather, one of ordinary skill in the art readily would ascertain, in light of Applicants’ disclosure, what the desired levels of these results are for a particular application of the present invention. Accordingly, Applicants respectfully assert that the use of the term “efficient filter cake” in the subject claims satisfies the requirements of 35 U.S.C. § 112, second paragraph. Applicants respectfully request the withdrawal of the rejections thereunder against claims 59, 63, and 66, and earnestly solicit the timely issuance of a Notice of Allowance for these claims.

B. Rejections of Claims Under 35 U.S.C. § 102(e)

Claims 47-50, 56-59, 61, and 63-67 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0261993 by Philip D. Nguyen (“*Nguyen I*”). A rejection based on 35 U.S.C. § 102(e) may be overcome by filing a declaration under 37 C.F.R. 1.131 showing prior invention. See MPEP § 706.02(b). Applicants have filed herewith a Declaration Pursuant 37 C.F.R. § 1.131 establishing a reduction to practice of the present invention prior to June 27, 2003, the effective date of *Nguyen I*. Accordingly, *Nguyen I* should not be cited as a prior art reference against the present application, and Applicants respectfully request withdrawal of this rejection with respect to claims 47-50, 56-59, 61, and 63-67.

C. Rejections of Claims Under 35 U.S.C. § 102(b)

Claims 15-22, 28-30, 47-49, 55-64, 66, and 67 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,387,986 to Moradi-Araghi *et al.* ("*Moradi-Araghi*"). With respect to these rejections, the Office Action states:

Moradi discloses a gel-forming composition comprising a material encapsulated with a degradable first polymer; a second polymer and a liquid (see column 3, lines 59-65); a clay may be included as a viscosifier (may be at 0.25 weight percent) and a weighting agent such as calcium carbonate [which can also act as a bridging agent] may also be added (see column 3, line 66 to column 4, line 27). The degradable first polymer may be a polyorthoester (see column 3, lines 12-16). The second polymer may be a carboxymethylcellulose or xanthan gum (may be at 0.01 weight percent) [well known as viscosifiers and fluid loss control agents], among others (see column 5, lines 4-22 and 60-67). The liquid may be water (see column 6, lines 12-17). The fluids of Moradi can be used during drilling (see column 6, lines 60-65). The capsules of the first polymer may be fairly small (see Example 1 and column 4), so can act as bridging agent.

The reference describes/contemplates capsules of degradable polymer of small enough size to be useful as bridging agents (see Example 1 and column 4). ...

(Office Action at pages 10-11.) Applicants respectfully disagree.

In order to form a basis for a rejection under 35 U.S.C. § 102(b), a prior art reference must disclose each and every element as set forth in the claim. MPEP § 2131. Applicants respectfully assert that *Moradi-Araghi* does not disclose every element of Applicants' claims because *Moradi-Araghi* does not disclose a bridging agent comprising a degradable material, as recited in claims 15 and 47, or the step of forming a filter cake that comprises such a bridging agent, as recited in claim 15. Therefore, *Moradi-Araghi* cannot anticipate Applicants' claims.

Moradi-Araghi does teach the use of a crosslinking agent that is encapsulated with a degradable material, and that the degradable material may comprise a polyorthoester. (See *Moradi-Araghi* at col. 2, ll. 23-26, col. 3, ll. 35-36.) However, the portion of *Moradi-Araghi* cited by the Examiner does not disclose, teach, or even mention that this degradable material may act as a bridging agent or form a filter cake in a subterranean formation, nor does

the balance of *Moradi-Araghi* provide any such teaching. Nor would the polymers disclosed in *Moradi-Araghi* that comprise degradable materials inherently be capable of acting as a bridging agent. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP § 2112.02 (citing *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)). Rather, “the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Id.* (quoting *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). *Moradi-Araghi* teaches that the polymer that comprises a degradable material may have a molecular weight in the range of from about 10,000 to about 30,000,000. (See *Moradi-Araghi* at Example 1 and column 4, ll. 52-59.) However, these degradable materials will not necessarily act as a bridging agent (as required by claims 15 and 47), nor would they necessarily form a filter cake within a subterranean formation (as required by claim 15). See MPEP § 2112.02.

Moreover, with respect to claims 28 and 55, *Moradi-Araghi* does not disclose or teach that the polymers that may comprise degradable materials have a particle size distribution in the range of from about 0.1 micron to about 1.0 millimeter, as recited in these claims.

Therefore, because *Moradi-Araghi* does not teach does not disclose a bridging agent comprising a degradable material, as recited in claims 15 and 47, or the step of forming a filter cake that comprises such a bridging agent, as recited in claim 15, Applicants respectfully assert that *Moradi-Araghi* does not disclose each element of claims 15 and 47. Thus, *Moradi-Araghi* cannot anticipate these claims, and claims 15 and 47 are allowable over *Moradi-Araghi*. Moreover, since “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers,” and since claims 16-22, 28-30, 48, 49, 55-64, 66, and 67 depend, either directly or indirectly, from independent claim 15 or 47, these dependent claims are allowable for at least the same reasons. See 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully requests the withdrawal of these rejections.

D. Rejections of Claims Under 35 U.S.C. § 103

1. Rejections Over *Moradi-Araghi*

Claims 15-23, 28-30, 47-50, and 55-67 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Moradi-Araghi*. With respect to these rejections, in addition to the remarks from the Office Action quoted in Section VII.C. above, the Office Action states:

Larger capsules [of degradable polymers] can be used for this purpose, even if not optimally. In any case, it would have been obvious to one of ordinary skill in the art to optimize the size of the capsules, and in the course of this routine optimization process, capsules within the range of claim 28 and 55 would have been made which are clearly suitable for use as bridging agents.

To the extent that the size of the capsule, such as in Example 1, differs from the size in claims 28 and 55, it would have been obvious to optimize the size to achieve specific degradation times.

(Office Action at page 11 (emphasis added).) With respect to claims 15, 23, 47, 50, and 65, the Office Action further states:

The Moradi reference has been discussed in detail above, and teaches all of the limitations of the rejected claims in the proper context, except for the specific limitations in claims 23, 50 and 65.

The use of plasticizers as in claims 23 and 50 is notoriously well known and would have been obvious at least to one of ordinary skill in the art.

The use of at least hydroxyethylcellulose as a fluid loss agent is notoriously well known in fluids like those of the reference, and this cellulose is at least suggested by disclosure in column 5 of the reference rendering claim 65 obvious to those of ordinary skill in the art.

(Office Action at page 13.) Applicants respectfully disagree with these rejections.

First, to form a basis for a § 103(a) rejection, a prior art reference must teach or suggest each element in the claim. MPEP § 2142. As discussed in Section VII.C. above, *Moradi-Araghi* does not teach or suggest a bridging agent comprising a degradable material, as recited in claims 15 and 47, or the step of forming a filter cake that comprises such a bridging agent, as recited in claim 15.

Moreover, in order for the modification of a prior art reference to be obvious, there must be some suggestion, in the prior art, the nature of the problem to be solved, or within the knowledge of one skilled in the art, to make that modification. *See id.* at § 2143.01 (citing *In re Rouffet*, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998)). As discussed above, there is no such teaching in *Moradi-Araghi* itself, and nothing within the knowledge of one of ordinary skill in the art would support modifying *Moradi-Araghi* to include a bridging agent that comprises a degradable material or to form a filter cake comprising that bridging agent. Moreover, the uses

of the degradable materials in *Moradi-Araghi* are totally different from those of the present invention. Applicants' claims use degradable materials as bridging agents, *inter alia*, to provide some degree of fluid loss control, whereas the degradable polymers disclosed in *Moradi-Araghi* are used to encapsulate a crosslinking agent to provide a gel-forming composition with a slower gel formation rate. (See *Moradi-Araghi* at col. 1, ll. 36-38, col. 2, ll. 23-26.) Therefore, the size of the degradable polymer capsules in *Moradi-Araghi* would be dictated by the size of the crosslinking agent and the desired gel formation rate, not the size necessary to act as a bridging agent that may form a filter cake in a subterranean formation. Accordingly, the modification of *Moradi-Araghi* required to achieve the methods and compositions recited in Applicants' claims would not be obvious.

Finally, in order for the determination of optimum or workable ranges of the size of the degradable material for a bridging agent (*e.g.*, those size ranges recited in claims 28 and 55) to be considered obvious, that parameter "must be recognized as a result-effective variable, *i.e.*, a variable which achieves a recognized result." MPEP at § 2144.05 (II.B.) (citing *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977)). However, *Moradi-Araghi* does not recognize that the size of the degradable polymers used therein could be optimized for the purpose of using them as a bridging agent to form a filter cake in a subterranean formation. Therefore, the optimization of the size of the degradable polymers disclosed in *Moradi-Araghi* would not be obvious to a person of skill in the art.

For at least these reasons, Applicants respectfully assert that *Moradi-Araghi* does not obviate claims 15 and 47. Moreover, since "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers," and since claims 16-22, 28-30, 48, 49, 55-64, 66, and 67 depend, either directly or indirectly, from independent claim 15 or 47, these dependent claims are allowable for at least the same reasons. See 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully requests the withdrawal of these rejections.

2. Rejections Over U.S. Patent Application Publication No. 2004/0261999

Claims 47-50 and 55-67 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0261999 by Philip D. Nguyen ("*Nguyen II*"). Since the publication date of *Nguyen II* is after the filing date of this application, *Nguyen II* can only be prior art against Applicants' claims under 35 U.S.C. § 102(e). However, a

rejection based on prior art under 35 U.S.C. § 102(e) may be overcome by filing a declaration under 37 C.F.R. 1.131 showing prior invention. *See* MPEP § 706.02(b). Applicants have filed herewith a Declaration Pursuant 37 C.F.R. § 1.131 establishing a reduction to practice of the present invention prior to June 27, 2003, the effective date of *Nguyen II*. Accordingly, *Nguyen II* should not be cited as a prior art reference against the present application, and Applicants respectfully request withdrawal of this rejection with respect to claims 47-50 and 55-67.

3. Rejections Over U.S. Patent No. 4,957,165 in View of U.S. Patent Application Publication No. 2003/0060374 and U.S. Patent No. 4,894,231

Claims 15-23, 28-30, 47-50, and 55-67 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,957,165 to Cantu *et al.* ("*Cantu*") in view of U.S. Patent Application Publication No. 2003/0060374 by Cooke, Jr. ("*Cooke, Jr.*") and U.S. Patent No. 4,894,231 to Moreau *et al.* ("*Moreau*"). With respect to these rejections, the Office Action states:

Cantu teaches a fluid for use in drilling and related processes (see column 1, lines 10-20). A component in this fluid may be a condensation product of hydroxyacetic (glycolic) acid with itself [the poly acid] or compounds containing other hydroxy, carboxylic acid or hydroxycarboxylic acid moieties ...; these products are solids and insoluble in aqueous and hydrocarbon media, but will degrade in the presence of moisture (see column 2, lines 27-45). The condensation product has a variable particle size distribution with 10 to 50 microns a good range (see column 3, lines 10-20). The hydroxyacetic acid condensation product can be used as the sole fluid loss additive or in combination with other fluid loss additives (see column 3, lines 25-30); calcium carbonate may be used as another fluid loss additive and will dissolve in acid (see column 1, lines 60-64). These particulate fluid loss agents also function as bridging agents. An aqueous gel of hydroxyethylcellulose may be included (see column 2, lines 55-65) - it can function as both a viscosifier and as a fluid loss control agent.

... The method steps of forming a cake and degrading/self-degrading this cake are inherent in the materials used here when placed downhole.

Cantu teaches all the limitations of the rejected claims in the proper context, but does not teach the use of the elected species, polyorthoesters, nor does it teach the specific limitations of claims 23, 30, 50, 60, 62, and 67.

Cooke teaches fracturing using degradable fluids or degradable polymer pellets (see Abstract). ... There is also mention of the use of degradable polymers as medical devices being well known and studied (see page 3, paragraph 25); thus, those of ordinary skill in the art would have been aware that substitute degradable polymers (those with a reasonable expectation of success) may be found in the medical art.

Moreau teaches the use of polylactic, polyglycolic, polyorthoesters and copolymers of lactide and glycolide as degradable polymers for use in delivery of therapeutic agents (see column 2, lines 10-35).

From these teachings, it would have been obvious to one of ordinary skill in the art that polyorthoesters are good substitutes for the degradable polymers in the fluids of Cantu.

(Office Action at pages 14-15.) Applicants respectfully disagree with each of these rejections.

First, to form a basis for a § 103(a) rejection, a combination of prior art references must teach or suggest each element in the claim. MPEP § 2142 (2004). Applicants respectfully submit that *Cantu* does not teach or suggest that the fluid loss additives disclosed therein are capable of forming a filter cake, nor does it teach or suggest the degradation of a filter cake as required by claim 15. The Office Action asserts that “the method steps of forming a cake and degrading/self-degrading this cake are inherent in the materials used here when placed downhole.” (Office Action at page 14.) However, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP § 2112.02 (citing *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993)). Rather, “the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Id.* (quoting *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). Nothing in *Cantu* indicates that the materials disclosed therein will necessarily form a filter cake within a subterranean formation, as required by claim 15. *See Id.* Further, nothing in *Cantu* indicates that the hydroxyacetic acid condensation products used as fluid loss control additives therein would self-degrade, even if they were capable of forming a filter cake. Nor do *Cooke, Jr.* or *Moreau* supply these teachings that are missing from *Cantu*.

Moreover, in order to combine references as a basis for a § 103(a) rejection, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings. *See id.* at § 2143. However, the Office Action does not indicate how a person of skill in the art would be motivated to combine all three of *Cantu*, *Cooke, Jr.*, and *Moreau*. *Cooke, Jr.* teaches the use of degradable polymers in fracturing fluids so as to increase the viscosity of a fluid used to fracture a subterranean formation (*see Cooke, Jr.* at page 2, ¶ [0014]), whereas *Cantu* teaches the use of certain polymers as fluid loss control additives (*see Cantu* at col. 2, ll. 23-27). Moreover, *Moreau* only teaches the use of certain degradable polymers as a part of a delivery system for therapeutic agents in the medical arts, which is completely unrelated to the fields of *Cantu* and *Cooke, Jr.*, as well as that of Applicants' invention. The mere fact that *Cooke Jr.* mentions that degradable polymers may be used to construct some medical devices (*see Cooke, Jr.* at page 3, ¶ [0025]) would not direct a person of skill in the art to art related to drug delivery applications to find substitute degradable polymers, much less does this statement in *Cooke, Jr.* teach that the degradable polymers disclosed in *Moreau* could be substituted into the methods disclosed in *Cantu* (which are completely different from those disclosed in *Cooke, Jr.*) with any reasonable expectation of success.

For at least these reasons, Applicants respectfully assert that the combination of *Cantu*, *Cooke, Jr.*, and *Moreau* does not obviate claims 15 and 47. Moreover, since "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers," and since claims 16-23, 28-30, 48-50, and 55-67 depend, either directly or indirectly, from independent claim 15 or 47, these dependent claims are allowable for at least the same reasons. *See* 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully requests the withdrawal of these rejections.

E. Provisional Double Patenting Rejections of Claims

1. Rejections Over U.S. Patent Application Serial No. 10/832,163

Claims 15, 22, 29, 47, and 49 stand provisionally rejected under the doctrine of nonstatutory obviousness-type double patenting as obvious over claims 4, 18, 20, 59, and 76 of U.S. Patent Application Serial No. 10/832,163. (*See* Office Action at page 16.) Submitted herewith is the appropriate Terminal Disclaimer in compliance with 37 C.F.R. § 1.321 disclaiming the appropriate term. Accordingly, Applicants respectfully submit that the double-

patenting rejection over this patent application has been overcome, and respectfully request the withdrawal of these rejections.

2. Rejections Over U.S. Patent Application Serial No. 10/608,319

Claims 47, 49, 50, and 54 stand provisionally rejected under the doctrine of nonstatutory obviousness-type double patenting as obvious over claims 67, 68, 72, and 73 of U.S. Patent Application Serial No. 10/608,319. (*See* Office Action at page 17.) Submitted herewith is the appropriate Terminal Disclaimer in compliance with 37 C.F.R. § 1.321 disclaiming the appropriate term. Accordingly, Applicants respectfully submit that the double-patenting rejection over this patent application has been overcome, and respectfully request the withdrawal of these rejections.

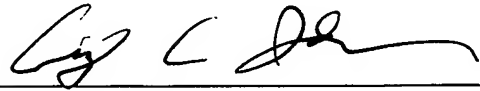
**SUMMARY AND PETITION FOR EXTENSION OF TIME OF ONE MONTH
TO FILE THIS RESPONSE**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants hereby petition under the provisions of 37 C.F.R. § 1.136(a) for a one-month extension of time to file this Response, up to and including April 13, 2006.

Applicants have included Check No. 961209 for the amount of \$560.00 for (1) the fee of \$120.00 under 37 C.F.R. § 1.17(a)(1) for the One-Month Petition for Extension of Time to File this Response, (2) the fee of \$180.00 for the fee under 37 C.F.R. § 1.17(p) for consideration of an Information Disclosure Statement after mailing of the first Non-Final Office Action on the merits, and (3) the fees of \$130.00 under 37 C.F.R. § 1.20(d) for each of the two terminal disclaimers. Should the Commissioner deem that any fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P.'s (*formerly Baker & Botts, L.L.P.*) Deposit Account No. 02-0383, Order Number 063718.0187.

Respectfully submitted,



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Date: April 12, 2006